



California Fair Political Practices Commission

May 1, 1990

Craig Primo
Campaign Manager
McClintock Committee
P. O. Box 6336
Thousand Oaks, CA 91362

Re: Your Request for Informal Assistance
Our File No. I-89-642

Dear Mr. Primo:

You are the campaign manager for Assemblyman Thomas McClintock. You have requested information regarding reimbursement of officeholder expenses from campaign funds under the Political Reform Act (the "Act").¹ Because your request is of a general nature, we are treating the request as one for informal assistance.²

On December 6, 1989, you received telephone advice with respect to the time for reimbursement of officeholder expenses under Regulation 18526.1 (copy enclosed). At your request, written advice was postponed so that you could receive additional advice under newly-enacted provisions of the Act governing the use of campaign funds, effective January 1, 1990. (Sections 85800-85807.)

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

QUESTIONS

1. Are political convention dues for an elected officer and his wife considered expenses incidental to office? If so, can these expenses be reimbursed from restricted funds?

2. If certain telephone calls were made from an elected officer's home for fundraising, can he be reimbursed from campaign funds?

CONCLUSIONS

1. Political convention dues for an elected officer and his wife may be paid from the elected officer's campaign funds. This would include funds which were formerly categorized as "restricted funds." If the elected officer pays the dues, he may be reimbursed from campaign funds if the reimbursement is made within 45 days of the date of the expenditure.

2. An elected officer may be reimbursed from campaign funds for the costs of incidental fundraising calls made from his home telephone.

FACTS

You are the campaign manager for Assemblyman Thomas McClintock. You have requested information concerning reimbursement of elected officers from campaign funds. On December 6, 1989, you were advised by our Technical Assistance and Analysis Division that expenditure reimbursements must be made within 45 days of the date of the expenditure.³ At your request, we have postponed a response so that your questions could be answered under the current provisions relating to appropriate use of campaign funds, effective January 1, 1990. (Sections 85800-85807.)

ANALYSIS

Prior to January 1, 1990, the use of campaign funds was governed by provisions of the Elections Code⁴ and the Attorney

³ It is our understanding that the convention dues were paid in August of 1989, more than 45 days prior to your request for assistance.

⁴ California Election Code Sections 12400-12404.

General was responsible for their enforcement. Sections 85800-85807 were added to the Act and became operative on January 1, 1990. Those sections now govern the appropriate use of campaign funds and are administered and enforced by the Commission.⁵

Political Convention Dues

The new provisions of the Act governing the use of campaign funds do not specifically provide for the payment of dues to a political convention. However, payment of the dues for an incumbent officeholder may still be permissible if the dues relate to a political, legislative or governmental purpose. Assuming that the dues are in excess of \$100, they must be directly related to a political, legislative or governmental purpose. (Section 85801.) We conclude that payment of dues to a political convention are directly related to a political or legislative purpose.

You have also asked if campaign funds may be used to pay the convention dues of the wife of an elected officer. Again, there is no specific provision governing this expense. However, Section 85802, which includes provisions governing specific expenditures, states that its provisions may be used as a guide in determining the appropriateness of other expenditures not specifically mentioned. For example, Section 85802(a)(2) permits the use of campaign funds to reimburse travel expenses of a candidate's wife to accompany him on his travels, if the travel expenses of the candidate would otherwise be permitted. Section 85802(e) permits the use of campaign funds to pay for the elected officer's wife's ticket to political fundraising events if the elected officer's ticket may be paid with campaign funds. Based upon these examples, we believe that the convention dues of the elected officer's wife may be paid with campaign funds.

Telephone Calls

Under the new provisions of the Act, an elected officer cannot use campaign funds to purchase or lease a telephone, unless title to the telephone is in the name of his campaign committee, the telephone is directly related to a political, legislative or governmental purpose, and personal use is incidental. (Section 85805.) In the situation you present, the elected officer is not purchasing or leasing his home telephone with campaign funds. He merely wishes to be reimbursed for the cost of campaign calls. Therefore, Section 85805 does not prevent such use. An elected officer may use campaign funds to pay for the incidental use of his home phone to make campaign telephone calls.

⁵ In the near future the Commission will begin considering regulations interpreting these laws. It is possible that the Commission may adopt regulations at variance with the advice given in this letter.

Restricted Funds

You have asked if reimbursement of expenses can be paid with restricted funds. By "restricted funds" it is assumed you are referring to funds raised prior to January 1, 1989. "Restricted funds" is a term which was commonly used to refer to campaign funds received by a candidate prior to January 1, 1989 in amounts in excess of the contribution limits imposed by Proposition 73, because use of those funds was restricted by Section 85306. Section 85306 has been declared unconstitutional and unenforceable. (Service Employees International Union, AFL-CIO, et al. v. Fair Political Practices Commission, Case No. 89-0433 LKK-JFM.) Effective September 13, 1989, candidates may use all of their pre-1989 contributions to support their own candidacy in future elections after January 1, 1989. As a result of this ruling, the term "restricted funds" is no longer applicable.

If such funds are going to be used for payment of expenses associated with your current or a future term of office, we advise that the funds be transferred to the bank account established for that current or future term, as appropriate, prior to their expenditure. (Section 85201.)

Reimbursement

Section 85806 provides as follows:

Campaign funds shall not be used to compensate a candidate or elected officer for the performance of political, legislative, or governmental activities, except for reimbursement, made pursuant to Section 85201, of out-of-pocket expenses incurred for political, legislative, or governmental purposes.

Emphasis added.

Section 85201 provides as follows:

(a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) Upon the establishment of an account, the name of the financial institution, the specific location, and the account number shall be filed with the commission within 24 hours.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

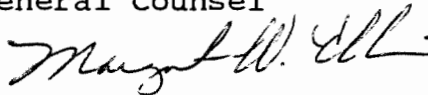
Emphasis added.

The Commission adopted Regulation 18526.1 to clarify Section 85201 with respect to reimbursement of elected officers. It provides that an elected officer may not be reimbursed for expenditures related to seeking election to a future term of office. For purposes of this regulation, those expenditures are defined as set forth in Regulation 18525 (copy enclosed). Regulation 18526.1(b) provides that reimbursement must be made within 45 days of the date of the expenditure. As previously noted, the convention dues that you refer to were apparently paid more than 45 days prior to your request for advice. Therefore, reimbursement would not be timely.

I trust that this letter has provided you with the information you requested. If you have any further questions, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Margaret W. Ellison
Counsel, Legal Division

KED:MWE:aa

Enclosures



California Fair Political Practices Commission

May 3, 1990

Greg Maw
Campaign Manager
McClintock Committee
333 North Lantana #267
Camarillo, CA 93010

Re: Your Request for Informal Assistance
Our File No. I-89-642

Dear Mr. Maw:

In reviewing our letter to Mr. Primo of April 12, 1990, we note an error on page 3. In the first sentence under the heading "Telephone Calls," we state that an elected officer cannot use "personal funds" to purchase or lease a telephone unless certain criteria are met as set forth in Government Code Section 85805. That sentence should read "campaign funds" rather than "personal funds."

Enclosed please find a corrected copy of the advice letter for your files.

Sincerely,

Kathryn E. Donovan
General Counsel

A handwritten signature in cursive script, appearing to read "Margaret W. Ellison", is written over the typed name.

By: Margaret W. Ellison
Counsel, Legal Division

KED:MWE:aa

Enclosure

Post Office Box 6336
Thousand Oaks, California 91362
(805) 495-0405



FPPC
Nov 8 3 00 PM '89
Assembly
California Legislature

THOMAS McCLINTOCK
ASSEMBLYMAN, THIRTY-SIXTH DISTRICT

Assembly Republican Whip
Vice Chairman
Assembly Judiciary Committee

Committees:
Ways and Means
Judiciary
Revenue and Taxation
Education
Policy Research
Member, Republican
Policy Committee
Member, Republican
Task Force on
Tort Reform

November 5, 1989

FPPC
420 J Street
Sacramento, CA 95814

Dear Ladies and Gentlemen,

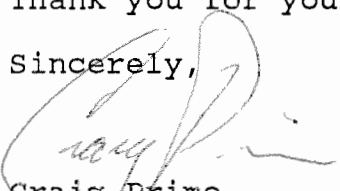
I have a few questions regarding reimbursing candidates.

1. Are political convention dues for the officeholder and his wife considered expenses incidental to office? If so, can I reimburse the Assemblyman for such from restricted funds?
2. If certain phone calls were made from the officeholders home specifically for fund raising efforts, can I reimburse him for these? I have careful documentation of the calls from the phone bill.

I have looked for the section in my manual regarding reimbursement of candidates, but can not find the required information. For future use, please tell me where I can research such questions.

Thank you for your attention.

Sincerely,


Craig Primo
Campaign Manager



California Fair Political Practices Commission

November 13, 1989

Craig Primo
Campaign Manager
Assemblyman Thomas McClintock
P.O. Box 6636
Thousand Oaks, CA 91362

Re: Letter No. 89-642

Dear Mr. Primo:

Your letter requesting advice under the Political Reform Act was received on November 8, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Jeanne Pritchard
Jeanne Pritchard
Chief Technical Assistance
and Analysis Division

JP:plh